

**A SUBSTITUTE ORDINANCE
BY FINANCE/ EXECUTIVE COMMITTEE**

07-O-1619

AN ORDINANCE AUTHORIZING THE CHIEF FINANCIAL OFFICER TO AMEND THE 2008 WATER AND WASTEWATER BUDGET, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN AN AMOUNT NOT TO EXCEED \$7,454,507.18, BY TRANSFERRING FUNDS FROM 2J26 (1999 WATER AND WASTEWATER BOND FUND) 772001 (EASEMENTS) Q38I02649999 (GREENSFERRY SEWER SEPARATION); 2J26 (1999 WATER AND WASTEWATER BOND FUND) 771001 (LAND) Q38I02649999 (GREENSFERRY SEWER SEPARATION); 2J26 (1999 WATER AND WASTEWATER BOND FUND) 774001 (FAC. OTHER THAN BUILDINGS) Q38I02609999 (INDIAN CREEK SEWER); 2J26 (1999 WATER AND WASTEWATER BOND FUND) 792001 (RESERVE, DESIGNATED) T11001 (RESERVATION OF FUND APPROPRIATIONS); 2J26 (1999 WATER AND WASTEWATER BOND FUND) 791001 (RESERVE FOR APPROPRIATIONS) T11001 (RESERVATION OF FUND APPROPRIATIONS) TO 2J26 (1999 WATER AND WASTEWATER BOND FUND) 729023 (ARBITRAGE REBATE) T31001 (UNALLOCATED FUND WIDE EXPENSES) TO PAY ARBITRAGE REBATE LIABILITY FOR THE 1999 WATER AND WASTEWATER BOND TO THE INTERNAL REVENUE SERVICE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") adopted a Master Bond Ordinance 99-O-0399, on March 31, 1999 ("Bond Ordinance") authorizing the issuance of its Series 1999A Water and Wastewater Revenue Bonds ("Bonds"); and

WHEREAS, the Bonds were issued on April 22, 1999 in aggregate principal amount of \$1,096,140,000.00; and

WHEREAS, a portion of the bonds , including the earning thereon ("Project Fund Monies") are to be used to permanently finance the cost of acquisition, construction and installation of addition, extension, replacements and improvements to the City's water and wastewater system("System"); and

WHEREAS, pursuant to Article IV of the Bond Ordinance a project fund ("Project Fund" and also known as the "1999 Water and Wastewater Bonds Fund") and a renewal and extension fund ("Renewal and Extension Fund") were established, with the Project Fund Monies held in the Project Fund and certain revenues from operation of the System held in the Renewal and Extension Fund; and

WHEREAS, pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended ("Code"), the excess of the amount earned on certain investment related to tax-exempt bonds, over the amount that would have been earned on those investments if they were invested at a rate equal to the yield on the related tax-exempt bonds plus any income attributable to such excess (hereinafter the "Excess Earnings") must be rebated to the United States Government, together in certain circumstances when the amount of Excess

Earnings is not timely rebated to the United States Government, with interest and penalties thereon; and

WHEREAS, pursuant to the Bond Ordinance the City agreed to cause the amount of Excess Earnings (including interest and penalties, if any, thereon) that must be rebated to the United States (“Arbitrage Rebate”) to be periodically calculated and set aside in a special fund (“Rebate Fund”) established under Article IV of the Bond Ordinance and further agreed to cause the Arbitrage Rebate to be paid to the United States Government, as required under Section 148(f) of the Internal Revenue Code; and

WHEREAS, the City caused the amount of Arbitrage Rebate payable with respect to the Bonds to be periodically calculated in order to comply with its Arbitrage Rebate obligation; and

WHEREAS, the City completed the 2007 Arbitrage Rebate calculation and concludes the amount owed to the United States Government will not exceed \$7,454,507.18; and

WHEREAS, it is in the best interests of the City and the City’s Water and Wastewater Bond Fund to now appropriate additional funds to cover the payment of the Arbitrage Rebate to the United States Internal Revenue Service; and

WHEREAS, **\$779,638.20 is already appropriated to** 2J26 (1999 Water and Wastewater Bond Fund) 729023 (Arbitrage Rebate) T31001 (Unallocated Fund Wide Expenses). This legislation proposes an additional appropriation of \$6,674,868.98 to 2J26 (1999 Water and Wastewater Bond Fund) 729023 (Arbitrage Rebate) T31001 (Unallocated Fund Wide Expenses).

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

SECTION 1: That the Fiscal Year 2008 Water and Wastewater Budget be, and is hereby amended as follows:

<u>Transfer from Appropriations</u>		
2J26 772001 Q38I02649999	1999 Water And Wastewater Bond Fund Easements Greensferry Sewer Separation	\$ 509,229.62
2J26 771001 Q38I02649999	1999 Water And Wastewater Bond Fund Land Greensferry Sewer Separation	\$ 856,335.05
2J26 774001 Q38I02609999	1999 Water And Wastewater Bond Fund Fac. Other Than Buildings Indian Creek Sewer	\$ 518,105.59
2J26 792001 T11001	1999 Water And Wastewater Bond Fund Reserve, Designated Reservation Of Fund Appropriations	\$ 4,045,251.45

2J26 791001 T11001	1999 Water And Wastewater Bond Fund	\$ 745,947.27
	Reserve for Appropriations	
	Reservation of Fund Appropriations	
	Total	<u>\$ 6,674,868.98</u>

Transfer to Appropriations

2J26 729023 T31001	1999 Water And Wastewater Bond Fund	<u>\$ 6,674,868.98</u>
	Arbitrage Rebate	
	Unallocated Fund Wide Expenses	

SECTION 2: That the Chief Financial Officer is hereby authorized to cause the necessary Arbitrage Rebate to be paid to the United States Internal Revenue Service, in an amount not to exceed \$7,454,507.18, to be charged to and paid from Fund, Account, and Center number 2J26(2001 Water & Wastewater Bond Fund) 729023 (Arbitrage Rebate) T31001 (Unallocated Fund Wide Expenses).

SECTION 3: That all Ordinances and parts of Ordinances in conflict herewith are hereby waived to the extent of the conflict.

**AN ORDINANCE
BY FINANCE/ EXECUTIVE COMMITTEE**

AN ORDINANCE AUTHORIZING THE CHIEF FINANCIAL OFFICER TO AMEND THE 2008 WATER AND WASTEWATER BUDGET, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN THE AMOUNT OF \$7,454,507.18 BY TRANSFERRING FUNDS FROM 2J26 (1999 WATER AND WASTEWATER BOND FUND) 791001 (RESERVE FOR APPROPRIATION) T11001 (RESERVATION OF FUND APPROPRIATIONS) TO 2J26 (1999 WATER AND WASTEWATER BOND FUND) 729023 (ARBITRAGE REBATE) T31001 (UNALLOCATED FUND WIDE EXPENSES) TO PAY ARBITRAGE REBATE LIABILITY FOR THE 1999 WATER AND WASTEWATER BOND TO THE INTERNAL REVENUE SERVICE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") adopted a Master Bond Ordinance 99-O-0399, on March 31, 1999 ("Bond Ordinance") authorizing the issuance of its Series 1999A Water and Wastewater Revenue Bonds ("Bonds"); and

WHEREAS, the Bonds were issued on April 22, 1999 in aggregate principal amount of \$1,096,140,000.00; and

WHEREAS, a portion of the bonds , including the earning thereon ("Project Fund Monies") are to be used to permanently finance the cost of acquisition, construction and installation of addition, extension, replacements and improvements to the City's water and wastewater system("System"); and

WHEREAS, pursuant to article IV of the Bond Ordinance a project fund ("Project Fund" and also known as the "1999 Water and Wastewater Bonds Fund") and a renewal and extension fund ("Renewal and Extension Fund") were established, with the Project Fund Monies held in the Project Fund and certain revenues from operation of the System held in the Renewal and Extension Fund; and

WHEREAS, pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended ("Code"), the excess of the amount earned on certain investment related to tax-exempt bonds, over the amount that would have been earned on those investments if they were invested at a rate equal to the yield on the related tax-exempt bonds plus any income attributable to such excess (hereinafter the "Excess Earnings") must be rebated to the United States Government, together in certain circumstances when the amount of Excess Earnings is not timely rebated to the United States Government, with interest and penalties thereon; and

WHEREAS, pursuant to the Bond Ordinance the City agreed to cause the amount of Excess Earnings (including interest and penalties, if any, thereon) that must be rebated to the United States ("Arbitrage Rebate") to be periodically calculated and set aside in a special fund ("Rebate Fund") established under Article IV of the Bond Ordinance and

further agreed to cause the Arbitrage Rebate to be paid to the United States Government, as required under Section 148(f) of the Internal Revenue Code; and

WHEREAS, the City caused the amount of Arbitrage Rebate payable with respect to the Bonds to be periodically calculated in order to comply with its Arbitrage Rebate obligation; and

WHEREAS, the City completed the 2007 Arbitrage Rebate calculation and concluded the amount owed to the United States Government is \$7,454,507.18; and

WHEREAS, it is in the best interests of the City and the City's Water and Wastewater Bond Fund to now appropriate funds to cover the payment of the Arbitrage Rebate to the United States Internal Revenue Service.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

SECTION 1: That the Fiscal Year 2008 Water and Wastewater Budget be, and is hereby amended as follows:

Transfer from Appropriations

2J26 791001 T11001	1999 Water And Wastewater Bond Fund \$7,454,507.18
	Reserve for Appropriations
	Reservation of Fund Appropriations

Transfer to Appropriations

2J26 729023 T31001	1999 Water And Wastewater Bond Fund \$7,454,507.18
	Arbitrage Rebate
	Unallocated Fund Wide Expenses

SECTION 2: That the Chief Financial Officer is hereby authorized to cause the necessary Arbitrage Rebate to be paid to the United States Internal Revenue Service, in an amount not to exceed \$7,454,507.18, to be charged to and paid from fund, account, and center number 2J26(2001 Water & Wastewater Bond Fund) 729023 (Arbitrage Rebate) T31001 (Unallocated Fund Wide Expenses).

SECTION 3: That all Ordinances and parts of Ordinances in conflict herewith are hereby waived to the extent of the conflict.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Finance/ Executive Committee

Caption:

AN ORDINANCE AUTHORIZING THE CHIEF FINANCIAL OFFICER TO AMEND THE 2008 WATER AND WASTEWATER BUDGET, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN THE AMOUNT OF \$7,454,507.18 BY TRANSFERRING FUNDS FROM 2J26 (1999 WATER AND WASTEWATER BOND FUND) 791001 (RESERVE FOR APPROPRIATION) T11001 (RESERVATION OF FUND APPROPRIATIONS) TO 2J26 (1999 WATER AND WASTEWATER BOND FUND) 729023 (ARBITRAGE REBATE) T31001 (UNALLOCATED FUND WIDE EXPENSES) TO PAY ARBITRAGE REBATE LIABILITY FOR THE 1999 WATER AND WASTEWATER BOND TO THE INTERNAL REVENUE SERVICE; AND FOR OTHER PURPOSES.

Council Meeting Date: July 16, 2007

Requesting Dept.: Department of Finance

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to amend the FY 2008 Budget to transfer funds from 2J26(1999 Water & Wastewater Bond Fund) 791001(Reserve for Appropriations) T11001 (Reservation of Fund Appropriations) to 2J26(1999 Water & Wastewater Bond Fund) 729023 (Arbitrage Rebate) - T31001(Unallocated Fund Wide Expenses) to rebatable arbitrage for the 1999 Water and Wastewater Revenue Bonds .

2. Please provide background information regarding this legislation.

The ordinance will transfers funds to the appropriate fund, account, and center to pay an arbitrage rebate installment to the Internal Revenue Service. T

3. If Applicable/Known:

- (a) Contract Type (e.g. Professional Services, Construction Agreement, etc):
- (b) Source Selection:
- (c) Bids/Proposals Due:
- (d) Invitations Issued:
- (e) Number of Bids:
- (f) Proposals Received:
- (g) Bidders/Proponents:
- (h) Term of Contract:

4. **Fund Account Center (Ex. Name and number):** 2J26(2001 Water & Wastewater Bond Fund)
791001(Reserve for Appropriations) T11001 (Reservation of Fund Appropriations) to 2J26 (1999 Water &
Wastewater Bond Fund) 729023 (Arbitrage Rebate) T31001(Unallocated Fund Wide Expenses)

Fund: _____ Account: _____ Center: _____

5. **Source of Funds:** *Example: Local Assistance Grant*

6. **Fiscal Impact:** This legislation will transfer funding from the 2001 Water & Wastewater Bond Fund reserve to the appropriation arbitrage rebate account.

7. **Method of Cost Recovery:**

This Legislative Request Form Was Prepared By: Shah Al-Mamun

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: LaShawn Gardiner *LaShawn Gardiner* 7/27/07

Contact Number: 404-330-6449

Originating Department: Department of Procurement

Committee(s) of Purview: Finance/ Executive Committee

Chief of Staff Deadline: July 9, 2007

Anticipated Committee Meeting Date(s): July 31- August 1, 2007

Anticipated Full Council Date: August 20, 2007

Legislative Counsel's Signature: *[Signature]*

Commissioner Signature: E. Raines 7/27/07

Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE AUTHORIZING THE CHIEF FINANCIAL OFFICER TO AMEND THE 2008 WATER AND WASTEWATER BUDGET, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN THE AMOUNT OF \$7,454,507.18 BY TRANSFERRING FUNDS FROM 2J26 (1999 WATER AND WASTEWATER BOND FUND) 791001 (RESERVE FOR APPROPRIATION) T11001 (RESERVATION OF FUND APPROPRIATIONS) TO 2J26 (1999 WATER AND WASTEWATER BOND FUND) 729023 (ARBITRAGE REBATE) T31001 (UNALLOCATED FUND WIDE EXPENSES) TO PAY ARBITRAGE REBATE LIABILITY FOR THE 1999 WATER AND WASTEWATER BOND TO THE INTERNAL REVENUE SERVICE; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any): \$7,454,507.18

Mayor's Staff Only

Received by CPO: *[Signature]* 7/27/07 Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: *[Signature]* 7/27/07 Reviewed by: _____
(date) (date)

Submitted to Council: _____
(date)

RCS# 1358
8/20/07
2:49 PM

Atlanta City Council

REGULAR SESSION

CONSENT II

REFER

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 5
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	NV Mitchell
NV Hall	Y Fauver	Y Martin	NV Norwood
Y Young	Y Shook	Y Maddox	NV Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

CONSENT II